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FCA outlines good and poor practice for complying with ‘back end’ cryptoasset financial promotions rules

 

By Anita Edwards & Simon Lovegrove (UK) on August 7, 2024

On 7 August 2024, the Financial Conduct Authority (**FCA**) **published** a summary of its review of cryptoasset firms’ compliance with new financial promotion rules designed to help people better understand the risks of investing in crypto.

Background

Following a change in legislation, qualifying cryptoassets were brought into scope of the financial promotions regime with effect from October 2023. In light of this, the FCA introduced new rules for promoting qualifying cryptoassets to retail clients, which took effect from 8 October 2023.

The review

Since the rules came into force, the FCA has carried out a review looking at how firms are implementing personalised risk warnings, the 24-hour cooling off period, client categorisation and appropriateness assessments. It chose a sample of firms that offer qualifying cryptoassets and are either registered with the FCA under the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, or are authorised firms able to approve promotions for unregistered or unauthorised firms. The FCA asked those firms for information on their onboarding journey and visited each of them to review their approach to the requirements.

The findings

The FCA has outlined the **findings** from its review, noting that while it found examples of firms demonstrating good practice, it also found multiple instances where firms did not meet the required standards. Where concerns were identified, the FCA explains that it has “worked extensively with individual firms to make significant improvements” in line with its objectives; however, more work needs to be done to improve compliance.

It has also provided additional clarity on its expectations for the crypto financial promotion rules, including examples of good and poor practice identified as part of the review. The findings and examples of good and poor practice cover the following aspects of the rules:

- The cooling-off period.
- Personalised risk warnings.
- Client categorisation.
- Appropriateness.
- Record keeping.
- Due diligence – including firms’ approach to conducting due diligence, use of due diligence, and due diligence on cryptoassets that claim a form of stability.

Next steps for firms

The FCA urges all firms to read the good and poor practice, as well as its **previously published guidance**. The firms involved in the review have also received individual feedback from the FCA.

The FCA warns that all firms communicating or approving financial promotions must make sure they have strong systems and controls for compliance in place, and that if firms do not improve, it will act. The FCA will also consider firms’ compliance with regulatory requirements, including the financial promotions regime, as part of any application to be authorised under the future financial services regulatory regime for cryptoassets.

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